

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

12 CV

4359

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JOHN ROTHENBERGER,

CIVIL ACTION  
COMPLAINT

Plaintiff,

- against -

JUDGE BRICCETTI

ANITA GUPTA, M.D. and  
SHELDON AXELROD, M.D.,

Docket No. \_\_\_\_\_

Defendant.  
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FILED  
U.S. DISTRICT COURT  
2012 JUN -4 PM 12:44  
S.D. OF N.Y.

The Plaintiff, **JOHN ROTHENBERGER**, by and through his attorney, GREGORY W. BAGEN, for his Complaint in the above captioned matter, respectfully alleges and shows as follows:

**JURISDICTION**

**FIRST:** Basis for jurisdiction is 28 U.S.C. 1332. The matter in controversy exceeds SEVENTY-FIVE THOUSAND and 00/100 DOLLARS (\$75,000.00) and is between citizens of different States.

**THE PARTIES**

**SECOND:** Plaintiff, **JOHN ROTHENBERGER**, resides in the Town of New Fairfield, County of Fairfield, State of Connecticut.

**THIRD:** (A) Upon information and belief, defendant, **ANITA GUPTA, M.D.**, practices medicine in the Town of Carmel, County of Putnam, State of New York.

(B) Upon information and belief, defendant, **SHELDON AXELROD, M.D.**, practices medicine in the Town of Carmel, County of Putnam, State of New York.

Basis for venue is 28 U.S.C. 1391. The events and omissions giving rise to the claim occurred in Putnam County, New York, which is within the Southern District of New York

### **BACKGROUND**

**FOURTH:** From November 17, 2010 to February 1, 2011, the plaintiff, JOHN ROTHENBERGER, was under the care and treatment of Dr. SHELDON AXELROD, M.D. and ANITA GUPTA, M.D. While under their care and treatment, and due to the negligence of the defendants, the plaintiff, JOHN ROTHENBERGER, suffered serious and permanent injuries consisting of the urinary tract infection, bacteremia, infection of the heart valves and permanent heart valve damage.

**FIFTH:** Defendants, SHELDON AXELROD, M.D. and ANITA GUPTA, M.D. in so treating plaintiff, JOHN ROTHENBERGER, deviated from standard of approved medical practice by failing to perform necessary diagnostic tests, failing to properly diagnose plaintiff's conditions, failing to properly treat the conditions, and failing to provide reasonable and necessary medical care.

### **CLAIM FOR RELIEF**

**NINTH:** As a result of the negligence, carelessness and medical malpractice of the defendants, plaintiff, JOHN ROTHENBERGER, sustained the aforementioned permanent and serious physical injuries together with the accompanying mental suffering and loss of enjoyment of life.

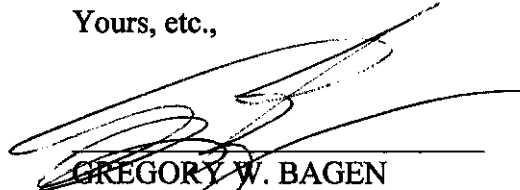
**TENTH:** As a result of the carelessness, negligence and malpractice of the defendants, as described above, plaintiff has suffered pain, mental anguish, bodily injury, permanent disability and loss of income and earning capacity, and will continue in the future to suffer all of the above, as well as medical and hospital expenses.

**ELEVENTH:** Plaintiff hereby demands a trial by jury.

**WHEREFORE**, Plaintiff demands judgment against defendants **ANITA GUPTA, M.D.**  
**and SHELDON AXELROD, M.D.**, in an amount to be determined by the trier of fact at the  
trial of this action not to exceed five million dollars.

Dated: Brewster, New York  
May 31, 2012

Yours, etc.,

A handwritten signature in black ink, appearing to read 'GREGORY W. BAGEN', is written over a horizontal line.

**GREGORY W. BAGEN**  
Attorney for Plaintiff  
**JOHN ROTHENBERGER**  
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